

REMARKS

A Restriction Requirement was mailed on February 18, 2003, requiring election between Group I (claims 1-3) and Group II (claims 4-11) identified by the Examiner. In response to the Restriction Requirement, a Response was filed on March 4, 2003, electing Group II (claims 4-11).

However, it is respectfully submitted that the outstanding Office Action is inconsistent with the Restriction Requirement, since the Office Action includes prior art rejections of the limitations in claims 1-3 (which were NOT elected), and page 7 of the Office Action indicates that the limitations of elected claims 4-11 were not given patentable weight since, according to the Examiner, these limitations are not germane to the issue of patentability of the device in claims 1-3.

Therefore, the undersigned Attorney Kravetz telephoned the Examiner on December 2, 2003, to discuss the outstanding Office Action. During the conversation, the Examiner indicated that the Restriction Requirement should not have separated claims 4-11 into a separate group, since these claims were all dependent claims.

Please note that originally-filed claims 1-3 relate to a gas discharge tube, and claims 4-11 relate to a method of manufacturing the electron emission film of the gas discharge tube. During the telephone conversation, the Examiner indicated that he considered the limitations of the gas discharge tube of non-elected claims 1-3. According to the Examiner, how the gas discharge tube is manufactured (as recited in elected claims 4-11) is not germane to the issue of patentability of the gas discharge tube itself. Therefore, the limitations of elected claims 4-11 were not considered.

In a good faith effort to comply with the outstanding Office Action, and to have the limitations of elected claims 4-11 considered, the claim 4 is amended to be in independent form, and to more clearly recite a method. New method claims 12-21 are added. Claim 11 is canceled. It is respectfully submitted that claims 1-10 and 12-21 are now currently pending.

The claim amendments and new claims more clearly separate the manufacturing method from the gas discharge tube itself.

Based on the previous Restriction Requirement, it is likely that the Examiner would consider the invention of claims 1-3 to be a separate invention from the invention of claims 4-10 and 12-21. **Therefore, it is respectfully requested that the Examiner consider the invention of claims 4-10 and 12-21, which would be consistent with the election in the Response filed on March 4, 2003.**

The outstanding Office Action includes an obviousness-type double patenting rejection. In view of the claim amendments and new claims, and the request that claims 4-10 and 12-21 be considered, it is believed that the double patenting rejection may no longer be applicable. However, if the Examiner maintains the rejection in the next action, it is respectfully submitted that the rejection would be addressed by the Applicants in more detail in the next response.

In view of the above, it is believed that this response is fully responsive to the outstanding Office Action.

If any further fees are required in connection with the filing of this response, please charge such fees to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: December 22, 2003

By: 

Paul I. Kravetz
Registration No. 35,230

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501